

Vermont State Hospital Policy & Procedure	Page 1 of 5	New <input type="checkbox"/> Updated <input type="checkbox"/> Revision <input type="checkbox"/>	Effective date: 9/21/05
Title: Advance Directives and Organ and Tissue Donation Policy			
Advanced by: VSH Policy Committee			Date: 9/9/05
Approved by: VSH Governing Body			Date: 9/21/05

Policy Statement:

The Vermont State Hospital supports a patient's right to self-determination with regard to health care decisions. VSH will not refuse healthcare to any patient because the patient has executed an advance directive. Nor will VSH require a patient to execute an advance directive as a condition of receiving healthcare or charge a patient a different rate for care on account of the patient's having executed an advance directive.

Purpose:

To ensure that in every case where a patient has executed an advance directive, hospital staff shall without delay obtain a copy of the advance directive and, to the extent possible, comply with the instructions contained therein.

Procedures:

A. Advance Directives:

1. Admission Staff Responsibilities

Prior to or as soon as possible after admission to VSH, admission staff will verify whether the patient has executed an advance directive for health care. Staff will accomplish this task by: (1) asking the patient directly whether he or she has an advance directive; (2) checking the hospital's internal electronic database; and (3) checking the Department of Health's on-line registry of advance directives.

Where the patient has an advance directive, admission staff will ensure that a copy of the advance directive is promptly made available to the patient's treatment team. The existence of any advance directive, as well as its amendment, suspension, or revocation, shall be prominently noted in the patient's file and entered into the hospital's electronic database on the patient.

Admission staff and/or Health Information staff shall accept advance directives from individuals who are not yet patients of VSH but who anticipate becoming patients in the future. Copies of any such advance directives shall be maintained in the person's patient file and noted in the hospital's electronic database.

Patients will receive "Taking Steps to Plan for Critical Health Care Decisions" printed by the Vermont Ethics Network in their patient admission packet. The admission packet shall also contain a blank advance directive form.

In completing the nursing assessment conducted upon admission, nursing staff verify that the patient has received the advance directive and organ and tissue donation information. In cases where the patient expresses further interest in learning about advance directives, nursing staff shall inform the Chief of Social Services or assigned social services staff, who shall ensure that the patient is provided with any additional information concerning advance directives that the patient may require.

2. Medical Staff Responsibilities

Except on an emergency basis, medical staff shall not provide health care to a patient lacking the capacity to make and communicate a health care decision without first attempting to determine whether the patient has executed an advance directive.

a. Initial Review of Advance Directives.

As soon as practicable after receiving a copy of an advance directive, the patient's treating physician shall review the advance directive to determine whether VSH or the treating physician would decline to follow any of the patient's instructions on the basis of a moral, ethical, or other conflict. In a case where such a conflict is found to exist, the physician shall promptly inform the patient, the patient's guardian, and the agent identified in the advance directive, if any, of the existence of the conflict.

In case a conflict exists, VSH shall assist the patient and/or the patient's guardian or agent in transferring the patient to another provider who is willing to honor the instruction. VSH shall provide ongoing health care to the patient until another provider is found. The treating physician shall document the existence of the conflict, the steps taken to resolve the conflict, and the ultimate resolution of the conflict in the patient's medical record.

In cases where the advance directive is unclear, or there are reasonable grounds to conclude that the patient lacked capacity at the time the patient executed the advance directive, the patient's treatment team should consult with Legal Division to determine whether it may be appropriate to seek an order from the probate court clarifying the Hospital's rights and responsibilities. In cases where adherence to the instructions in the advance directive will compromise or unduly delay recovery, the treatment team may consider whether to recommend the appointment of a guardian.

b. Activating the Advance Directive.

An advance directive becomes effective when the patient's treating physician determines that the patient lacks the capacity to make and communicate a health care decision. An advance directive may also become effective upon execution, or upon the occurrence of an event specified within the advance directive.

When the advance directive becomes effective upon a determination of incapacity, the physician shall document this determination, making specific findings regarding the

cause, nature, and projected duration of the individual's lack of capacity, and certifying those findings in the patient's medical record. The physician shall make reasonable efforts to inform the patient, the patient's guardian, and the agent identified in the advance directive, of his or her determination.

c. Following the Advance Directive.

Except under the circumstances identified above, VSH medical staff shall honor all treatment instructions contained in an advance directive. In the event the patient has appointed an agent to make health care decisions, VSH shall follow the agent's instructions to the extent they are consistent with the patient's wishes as expressed in the advance directive.

Even in cases where the patient has been found to lack the capacity to make or communicate a health care decision and an advance directive has become activated, VSH may not administer healthcare or follow an agent's instruction to administer health care over the patient's objection, unless the advance directive contains a provision permitting the agent to authorize or withhold treatment over the patient's objection. Such a provision (also called a "Ulysses Clause") becomes effective only after two physicians have certified in the patient's medical record that the patient lacks the capacity to make or communicate a health care decision.

Upon a determination by the patient's physician that the patient has regained the capacity to make or communicate a health care decision, the authority of any agent for health care identified in the advance directive shall terminate.

Where the probate court has appointed a guardian for the health care of the patient, the guardian's court-authorized instructions concerning the patient's health care shall take precedence over any instructions contained in an advance directive.

3. Social Services Chief Responsibilities

The Social Services Chief or designated Social Services staff members are the VSH employees charged with explaining the nature and effect of an advance directive to any patient requesting such information. The Social Services Chief or designee shall explore an inpatient's interest in executing an advance directive at six month intervals. The Social Services Chief or designee shall assist patients in submitting an advance directive, or amendment, suspension, or revocation thereof to the patient's medical record and to the Department of Health's online registry of advance directives.

Where a patient executes an advance directive while admitted to VSH, the advance directive shall not be effective unless the Social Services Chief or other statutorily authorized person (i.e., ombudsman, member of the clergy, Vermont attorney, or probate court designee) signs a statement to the effect that he or she has explained the nature and effect of the advance directive to the patient. Notwithstanding the foregoing, where an advance directive executed by an admitted patient contains a provision permitting the

designated agent to authorize or withhold treatment over the patient's objection (a "Ulysses Clause"), the required statement must be signed by someone other than an employee of VSH.

4. Process for Patients Executing Advance Directives

The Social Services Chief or assigned Social Services staff member shall be notified of any request by a patient for assistance from VSH in executing an Advance Directive and:

- a. The Social Services Chief or assigned Social Services staff member will meet with the patient to explain the nature and effect of an Advance Directive to the patient.
- b. The Social Services Chief or assigned Social Services staff member, in consultation with the patient's treating physician, shall assess the patient's basic understanding of their diagnosis and the benefits, risks and alternatives to the proposed health care outlined in any proposed Advance Directive; or, when proposing a health care agent, the patient's basic understanding of what it means to have another individual make health care decisions for the patient.
- c. The Social Services Chief or assigned Social Services staff member shall sign a statement that he/she has provided an explanation of the Advance Directive and that the patient appears to understand the nature of the Advance Directive. A hospital ombudsman, member of the clergy, licensed attorney, or probate court designee may also attest to explaining the nature and effect of an Advance Directive and sign the Advance Directive for patients in the hospital.
- d. In order to be valid, a hospitalized patient must also sign and date the Advance Directive in the presence of at least two witnesses who are at least 18 years old. The witnesses may not be the proposed health care agent, patient's spouse, reciprocal beneficiary, parent, sibling, or adult child or grandchild. Witnesses may be volunteers at VSH, clergy (not eligible when also attesting to the explanation of the Advance Directive), other AHS personnel not employed by VSH, or other adult individuals not excluded by law. Witnesses must affirm that the patient appears to understand the nature of the Advance Directive and was free from duress and undue influence at the time that the Advance Directive is signed. Witnesses will also date and sign the Advance Directive in the presence of the patient.
- e. The Social Services Chief or assigned Social Services staff member shall immediately notify Health Information who will place the original Advance Directive in the patient's medical record and attach an Advance Directives sticker to the front of the patient's chart. Health Information will also notify Admission's staff to update the hospital electronic data base. The Charge Nurse of the patient unit will notify the patient's treating physician of the existence of the

patient Advance Directive. The treating physician will review the Advance Directive consistent with Medical Staff responsibilities outlined in (2.) above.

- f. Two copies of the Advance Directive will be provided to the Social Services Chief or assigned Social Services staff members by Health Information for the patient. As needed, inpatients will be assisted in providing notice of their Advance Directive to the Advance Directives Registry.

In the event that the Social Services Chief or assigned Social Services staff member, in consultation with the physician and following an explanation of an Advance Directive to a current inpatient, are unable to affirm the inpatient's understanding of the nature and effect of an Advance Directive; the Social Services Chief or assigned Social Services staff member will document a note to this effect in the patient record.

The treating physician will determine the patient's capacity to execute an Advance Directive in the same manner as outlined in (2.b.) for activating an Advance Directive. If the patient regains capacity or the condition that compromises the patient's understanding of the nature and effect of an Advance Directive ceases to exist, the Social Services Chief or assigned Social Services staff member may explore the patient's interest in executing and Advance Directive while hospitalized.

5. Revocation, Suspension, or Amendment of an Advance Directive

The Social Services Chief or assigned Social Services staff member shall be notified of any patient request to amend, revoke, or suspend an existing Advance Directive and:

- a. The Social Services Chief or assigned Social Services staff member will meet with the patient to determine the specific patient request, and if indicated by the request and in consultation with the patient's treating physician, the patient's capacity to amend an Advance Directive.
- b. All inpatients may revoke or suspend all or a part of an existing Advance Directive by:
 - 1. signing a statement suspending or revoking the designation of an health care agent or
 - 2. by personally informing his treating physician of the request.
 - 3. destroying or expressly directing the destruction of the advance directive in the patient's presence.

The treating physician shall document any suspension or revocation of an Advance Directive in the patient record.

- c. A patient may amend an Advance Directive if the patient is determined to have capacity to make the requested change. Amendments to an Advance Directive shall be executed in the same manner as a new Advance Directive (4.b – f) above.

6. Agent's Authority

VSH shall ensure that, to the extent the advance directive does not provide otherwise, an agent or guardian has the same rights as the patient to:

- a. Receive information regarding individual's physical or mental health, including access to medical records;
- b. Participate in meetings concerning the patient's health;
- c. Consent to the disclosure of health information;
- d. File a grievance on behalf of the patient.
- e. Make health care decisions on behalf of the patient, to the extent specified in the advance directive.

B. Organ and Tissue Donation

Patients will receive organ and tissue donation information provided by the New England Organ Bank (NEOB) upon admission to VSH.

Nursing staff will verify that the patient has received organ and tissue donation information and will address questions raised by the patient with regard to possible donation.

C. Terminal Care

Any patient requiring mechanical life supports will be immediately transferred to the nearest acute care hospital for terminal care. Record transfer (date and time) shall be documented in the patient's record. The physician-of-record or designee will contact the NEOB's 24-hour number 1-800-446-6362 to notify the NEOB of the transfer in a timely manner. The physician-of-record or designee will notify the acute care hospital of contact with NEOB for possible organ or tissue procurement.

D. Patient Death:

1. The physician-of-record or designee is responsible for informing the family of the patient's death.
2. The State Medical Examiner is notified of all untimely deaths and ultimately determines disposition of an expired patient. The Medical Examiner will be

informed if the patient has documented patient directives for organ or tissue donation.

2. The New England Organ Bank (NEOB) will be notified of all deaths unless there are specific, documented patient directives contrary to organ or tissue procurement or is contrary to the directives of the State Medical Examiner.
3. Only NEOB staff or VSH staff trained by NEOB will offer procurement to a potential donor family. A signed donor card or previously expressed wish does not preclude or guarantee organ or tissue procurement.
4. VSH will facilitate the review of death records by the New England Organ Bank, ensuring adherence to donation protocol and hospital compliance to these policies and procedures.

Procedures for Untimely (Asystolic) Deaths

1. Once the family has been informed of the patient death and there are no contraindications identified in (b) above, the primary nurse or designated representative will contact the Donor Service Program's 24-hour number 1-800-446-6362 for notification of referral.
2. The primary nurse or designated representative will provide preliminary information to the New England Organ Bank via the 800 number to determine donor suitability. Information provided may include:
 - a. Caller's name, unit, & phone number
 - b. Hospital contact (attending physician or primary nurse)
 - c. Patient's name, age, sex, and race
 - d. Date and time of death; date of admission
 - e. Cause of death
 - f. Past medical history (e.g., history of cancer, prior transplants, etc.)
 - g. Name and phone number of next-of-kin
3. If the deceased is not medically suitable, the outcome will be documented in the patient's chart and no further action is required. If the deceased is medically suitable, NEOB or NEETTB staff will be responsible for contacting the family and discussing donation.
4. Regular chart audits of deceased patients will be conducted by the New England Organ Bank staff to ensure adherence to organ and tissue donation policy and procedure. Appropriate follow-up will be conducted in regards to identification and timely referral of all expired patients. The New England Organ Bank will evaluate compliance to procurement policies on a regular basis.